

~~22 Feb. 1647~~

10.
4.

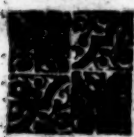
JUDGE JENKINS

REMONSTRANCE

To the Lords and Commons of the
two Houses of Parliament,

At WESTMINSTER, the 21. of Fe-
bruary, 1647.

By DAVID JENKINS, Prisoner in Newgate.

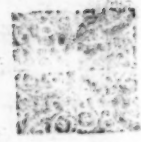


Printed in the Year, 1647.

INDEX
REMOVALS

To the Editor and Committee of the
two Houses of Parliament
at Westminster
London

By David Lankford, Esq.



Printed in the Year, 1847.



Judge Fenkins Remonstrance, &c.



Desire that the Lords and Commons of the two Houses, would be pleased to remember, and that all the good people of England doe take notice of an Order of the house of Commons this Session, for publishing the Lord Cookes bookes, which Order they may finde printed in the last leafe of the second part of his Institures, in these words, (*viz.*)

Die Mercurii 12. May 1641

Upon debate this day in the Commons House of Parliament, the said house did then desire and held it fit that the Heire of Sir Edward Cooke should publish in print the Commentary upon *Magna Charta*, the *Pleas of the Crowne*, and the *jurisdiction of Courts*, according to the intencion of the said Sir Edward Cooke; and that none but the Heire of the said Sir Edward Cooke, or he that shall be authorized by him, doe presume to publish in print any of the foresaid bookes, or any copy thereof.

*H. Elsynge Cler. Dom.
Com.*

And I doe further desire them that they would read
and peruse Mr. *Sollicitor Saint-Iohn*, and Mr. *John Pym*,
their bookes, published likewise this Session, whose ti-
tles are as followeth, (*vix*)

*An Argument of Law concerning the Bill of Attainder
of High Treason of Thomas Earle of Strafford.*

*At a conference in a Committee of both Houses
of Parliament.*

By Mr. *Saint-Iohn* His Majesties Sollicitor Generall.
Published by Order of the Commons house,

L O N D O N,

Printed by G. M. for J. B. Barlet, at the signe of the guilt
Cup, near St. *Austins* gate in Pauls Church-yard, 1641.

*And the Speech or Declaration of John Pym Esquire,
After the recapitulation or summing up of the charge
of High Treason, against Thomas Earle of
Strafford, 12 Aprill, 1641.*

Published by the Order of the Commons
House.

L O N D O N,

Printed, for John Barlet, 1641.

1. **N**othing is delivered for Law in my bookes, but
what the House of Commons have avowed to
be Law in bookes of Law, published by their com-
mand this Session, and agreeable to the bookes of
Law, and Statutes of this Realme, in all former times
and ages.

2. The

2. The supposed offence charged on me; is against the two Houses; and none ought to be Judges and parties; by the Law of this Land, in their own case.

3. I desire the benefit of *Magna Charta, the Petition of Right*, and other good Lawes of this Land, which ordaine that *all mens tryalls should be by the established Lawes; and not otherwise*: They are the very words of the petition of Right.

An Ordinance of both Houses is no Law of the Land by their owne confession; and by the bookes of the Lord Cooke, published by their Order as aforesaid this Session in severall places.

For **Sedition**; in my bookes there is none, but such as they have authorized this Session, to be published, and printed: To publish the Law is no sedition: These Positions following I doe set downe for the Law of the Land in my bookes, and they themselves have justified, and avowed them as aforesaid; we agree the Law to be, and to have been in all times in all the particulars following, as here ensueth.

1. To imprison the King is High Treason.
2. To remove Counsellours from the King by force is High Treason.
3. To alter the established Lawes in any part by force is High Treason.
4. To usurpe the Royall power is high Treason.
5. To alter the Religion established is high Treason.
6. To raise rumours and give out words to alienate the peoples affections from the King, is high treason.
7. To sesse Souldiers upon the people of the Kingdome without their consent; is high treason.
8. The execution of paper orders by Souldiers in a military

Part col. of Ordinances, f. l. 718.

2. Part Instit. fol. 47. 48. 157. 449.

4. Part Instit. 232. 298.

4. H. 7. 182.

3. Part Instit. pag. 2.

Mr. Solicitor.

pag. 12.

3. part Instit. pag. 9.

Mr. Pym, pag. 28.

3. Part Instit. 3.

10. 13. 16.

3. Part Instit.

pag. 9.

Mr. Solicitor.

Pag. 10. 12. 36.

Mr. Solicitor.

pag. 9.

Mr. Solicitor.

pag. 9.

litary way, is high treason.

9. To counterfeit the great Seale, is high treason.

10. The Commission of Array is in force, and none other.

11. None can make Iudges, Iustices, Sheriffes, &c. but the King: The King makes every Court.

12. The great Seale belongs to the Kings custody, or to whom he shall appoint, and none other.

13. Ordinances of one or both Houses are no lawes to bind the people.

14. No Priviledge of Parliament holds for treason, felony, or breach of the peace, not for twenty Parliaments, nor forty, nor three hundred.

15. To subvert the fundamental Lawes is high treason.

16. To levey warre against the person of the King, is high treason.

17. To perswade Forreiners to leavy war, with this Kingdome, is high treason.

18. To impose unlawfull taxes, to impose new Oathes, is high treason.

19. The King can doe no wrong.

20. It is a pernicious doctrine to teach subjects, they may be discharged from the Oath of Allegiance. That what meanes the Doctrine of the Votes of both houses of the 11. of Febr. 1647.

21. A necessity of a mans owne making, doth not excuse him. The requiring and forcing of the Militia brought the necessity of arming upon the Houses.

22. None can leavy warre within this Realme, without authority from the King, for to him onely is belongeth to leavy warre, by the Common Law of the Land, so otherwise, is high treason, by the said Common Law.

Mr. Soliciter.
pag. 24.

4. part. instit.
p. 135.

Iustice Huttrons
argument, fol. 39,

40.

4. part. Instit.

2. part. instit. arti-
cul. super char-
tas cap. 5.

1. part. Coll. of
Ordin. and Coo-
ut supra.

4. part. instit. 45.

M. Soliciter. pag.
3. 70.

M. Soliciter pag.
12. 27.

M. Solieiter pag.
26.

M. Soliciter pag.
35.

M. Pym pag. 8.

M. Pym pag. 17.

M. Pym pag. 24.

1. 2. part. instit.
pag. 9.

and other.

ely quarrell was and is the Milicia; for the which so much blood hath been spent and treasure.

At whose dore doth the sinne lie?

23. *No Parliament without the King, he is Principium*

M. Soliciter 70.

71.

4. part instit. pag.

1. 3. 4.

4. part instit. 42.

336.

24. *Presentment or tryall by Jury, is the birthright of the Subject.*

There is no doubt but that many in both Houses are free from this *great sinne*; and that most of the prevailing party, had at first no intentions to proceede so farre; but the madnesse of the people (who are very unstable, and so they will finde them) and the successe of their armes (having this great rich City to supply them, with all accommodations) have so elated them, that the evil is come to this height.

For my selfe, to put me to death in this cause, is the greatest honour I can possibly receive in this World: *Dulce & Decorum est mori pro patria*. And for a Lawyer and a Judge of the Law, to dye, *Dum sanctis patrie legibus obsequitur*; for obedience to the Lawes; will be deemed by the good men of this time, a sweet smelling sacrifice; and by this, and future times, that I dyed full of yeares, and had an honest and an honorable end: And posterity will take knowledge of these men, who put some to death for subverting of the Lawes, and others for supporting of them, &c.

Yet Mercy is above all the workes of God, *The King is Gods Vicar on earth*. In *Bracton*, who was a Judge in *Hen. 3.* time, you shall finde the Kings Oath; *To shew mercy*, is part of it: You are all his children; say, and doe what you will, you are all his Subjects: and *He is your King, and Parent: Pro magno peccato parvulum*

Bracton, lib. 3.

cap. 9. pag. 107.

4. part instit. 342.

343.

Stanford, 99.

penitulum supplicii satis est patri: and therefore let the
 the prevailing party be obdurate, out of a desperation
 of safety: That which is past is not revocable, to
 to your thoughts, your parents, your wives, your chil-
 dren, your friends, your fortunes, your country
 wherein forreigners write there is *mira aeris suavitatis*
& rerum omnium abundantia: invite them not hither
 the onely way to be free of their company will be,
 restore his Majesty, and receive from him an act of Oblivion,
 a generall Pardon, assurance for the arreares of the
 Souldiery, and more satisfaction to tender consciences.

God preserve the King and the Lawes.

**Da. Jenkins Prisoner in
 Newgate.**

FINIS.